



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

# HARVARD LAW REVIEW

Vol. XXVI.

1912—1913

CAMBRIDGE, MASS.  
THE HARVARD LAW REVIEW ASSOCIATION  
1913

*Copyright, 1912, 1913,*  
BY THE HARVARD LAW REVIEW ASSOCIATION

THE UNIVERSITY PRESS, CAMBRIDGE, U.S.A.

# TABLE OF CONTENTS.

## ARTICLES.

	PAGE
ADMINISTRATION OF JUSTICE IN THE MODERN CITY, THE. <i>Roscoe Pound</i> . .	283
CONSIDERATION, THE DOCTRINE OF. <i>Clarence D. Ashley</i> . . . . .	429
CONSTITUTION AND THE COURTS, THE. <i>John G. Palfrey</i> . . . . .	507
DEEDS OF LAND, CONDITIONAL DELIVERIES OF. <i>Harry A. Bigelow</i> . . . .	565
ELECTION OF REMEDIES. <i>Charles P. Hine</i> . . . . .	707
FOURTEENTH AMENDMENT, JUDICIAL CONSTRUCTION OF. <i>Francis J. Swayze</i> .	1
GENERAL POWERS AND THE RULE AGAINST PERPETUITIES. <i>Albert M. Kales</i> .	64
GENERAL TESTAMENTARY POWERS AND THE RULE AGAINST PERPETUITIES. <i>John C. Gray</i> . . . . .	720
HEARSAY RULE, AN EXCEPTION TO THE. <i>Eustace Seligman</i> . . . . .	146
IMPEACHMENT OF THE FEDERAL JUDICIARY, THE. <i>Wrisley Brown</i> . . . . .	684
INCORPORATION LAWS, THE POWER OF CONGRESS TO ENACT. <i>Victor Morawetz</i>	667
INTERLOCKING DIRECTORATES, THE PROBLEM AND ITS SOLUTION. <i>Max Pam</i>	467
INTERNATIONAL ARBITRATION OF JUSTICIABLE DISPUTES. <i>William W. Thayer</i>	416
JURISDICTION OF COURTS OVER FOREIGNERS. <i>Joseph Henry Beale</i> . . .	193, 283
NEGOTIABLE INSTRUMENTS LAW, SOME NECESSARY AMENDMENTS OF. <i>J. D.</i> <i>Brannan</i> . . . . .	493, 588
NEGRO DISFRANCHISEMENT, THE LATEST PHASE OF. <i>Julien C. Monnet</i> . . .	42
NOTICE TO A CORPORATION FROM ENTRIES ON ITS BOOKS. <i>Edwin H. Abbot, Jr.</i> .	237
PROPOSED PATENT LAW REVISION, THE. <i>Gilbert H. Montague</i> . . . . .	128
REFORMED EQUITY PROCEDURE IN ENGLAND, THE OPERATION OF . . . . .	99
ROMAN LAW, THE VOCATION OF AMERICA FOR THE SCIENCE OF. <i>Rudolf Leonhard</i>	389
SHARES WITHOUT NOMINAL OR PAR VALUE. <i>Victor Morawetz</i> . . . . .	729
STATUTE OF FRAUDS, THE DATE AND AUTHORSHIP OF. <i>George P. Costigan, Jr.</i>	329
STATUTE OF USES, THE POLITICAL CAUSES WHICH SHAPED. <i>W. S. Holdsworth</i>	108
STRIKING WORDS OUT OF A WILL. <i>Roland Gray</i> . . . . .	212
TRIAL BY JURY IN UNITED STATES COURTS. <i>J. L. Thorndike</i> . . . . .	732
WATER POWERS, THE CONSERVATION OF. <i>Rome G. Brown</i> . . . . .	601

## INDEX-DIGEST.

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## A

**ADMIRALTY.**

See also *Maritime Liens*.

**Torts:** Damages recoverable by one of two vessels at fault from the other: full damages. 264  
Recognition of state law as to liability of county. 751

**ADOPTION.**

See *Descent and Distribution*.

**ADVERSE POSSESSION.**

**Subject matter and extent of adverse possession:** Dedication by adverse possession. 85  
Minerals: acts necessary to constitute adverse possession. 555  
**What constitutes:** Possession under unrecorded deed. 762

**AGENCY.**

Particular classes of agents: see *Corporations, Insurance, Municipal Corporations*.

**Nature and incidents of relation:** Knowledge of agent: when imputed to a corporation. 237-252  
When imputable to principal. 547  
Knowledge of corporation: whether imputed to agent. 652

**Principal's liability to third persons in torts:** Fraud: liability

for fraud of agent committed for benefit of agent. 449

Slander by agent. 175

**Principal's liability for acts of independent contractor:** Landowner's liability for negligent blasting. 650

**Agent's liability to third parties:** Nonfeasance of agent as basis of liability. 174

Parties to writings: parol evidence to exonerate agent. 650

Personal liability of agent of corporation for *ultra vires* transaction. 542, 550

**Ratification of unauthorized contracts:** Contract of insurance ratified after occurrence of loss. 264

**ASSAULT.**

**Civil liability:** Physician's liability for operation without patient's consent. 91

**ASSIGNMENTS.**

Of right of entry, see *Deeds*.

**ASSUMPSIT.**

Action based on waiver of tort, see under *Quasi-Contracts*.

## B

**BAILMENT.**

See *Carriers; Trover and Conversion*.

**Nature of bailments:** Liability of restaurant keeper for guests' overcoats. 751

**Bailor and bailee:** Limitation of liability becoming a term of contract. 651

**BANKRUPTCY.**

**Bankruptcy Act of 1898 and Amendments:**

§ 47 a (2) 1910. 82  
§ 63 (a) 4. 264

§ 67 f. 752  
§ 70 a. 364

**Discharge:** Assignment of expectancy not affected by discharge. 174  
Debts not affected: alimony. 752

**Liens, dissolution of:** Liens obtained within four months valid except as against trustee, and merely voidable as to him. 752

**Preference:** Insurance from property preferentially mortgaged, as a preference. 362, 365

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

<b>Property passing to trustee:</b> Perishable goods: purchaser after adjudication protected.	364	§ 186.	591, 599-600
Property conveyed under deeds which are void as to creditors cannot be recovered by trustee.	82	§ 187.	365
<b>Provable claims:</b> Claim against bankrupt indorser of note maturing after filing of petition: effect of partial payment at maturity by maker.	264	§ 188.	365
Dividends informally declared.	370	§ 192.	366
Executory contracts for sale of goods to be performed after the adjudication.	72, 92	<b>Formal requisites:</b> Certainty in amount: "currency" and "current funds."	493-494
<b>BANKS AND BANKING.</b>		<b>Indorsement:</b> Right of subsequent holder to restrain negotiability of instrument indorsed in blank by payee.	500-501
<b>Deposits:</b> Clearing house: effect of payment through.	265	<b>Anomalous indorser:</b> Liability at common law, and under Negotiable Instruments Law.	588-589
Joint creditors: right of survivor.	547	<b>Overdue paper:</b> Transfer after maturity: liability of accommodation party.	494-500
<b>BILLS AND NOTES.</b>		<b>Purchasers for value without notice:</b> Application to doctrine of Price v. Neal.	634, 651
See <i>Judgments; Pledges.</i>		Corporation's knowledge as notice to officers.	652
<b>Negotiable instruments law:</b>		Payee as purchaser for value.	652
6.	493-494	<b>Doctrine of Price v. Neal:</b> Relation to the doctrine of purchaser for value without notice.	634, 651
29.	494-500	<b>Payment and discharge:</b> Suit against maker by indorsee who has recovered in full from indorser but who retained the paper.	449
30.	652	<b>Checks:</b> Certified checks: maker not discharged when certified at his instance.	365
40.	500-502	— maker discharged when certified at instance of holder.	365
30.	502	Failure to present check excusing drawer.	599-600
52.	652	<b>Statutes:</b> Negotiable Instruments Law: effect on set-off of accommodated payee of promissory note against insolvent bank.	366
53.	590	— necessary amendments.	493-506; 588-600
58.	502-506		
64.	588-589		
70.	589-590		
71.	590-591		
85.	592		
119.	593-596		
120.	594-596		
119.	366		
120.	366		
121.	504-505		
137.	596-599		
185.	591		

## C

**CANCELLATION.**

**Insurance policy:** Cancellation for breach of warranty. 366

**CARRIERS.**

See also *Interstate Commerce; Railroads; Sales.*

**Control and regulation:** Withdrawal from public service. 659

**Federal regulation:** Validity of pro-

vision that pipe lines be common carriers. 631, 655

**State regulation:** Constitutionality of statute providing reduced rates for militia. 360, 367

Constitutionality of statute requiring policemen to be carried free on trolley cars. 360, 367

**Custody and control of goods:** When a carrier becomes a warehouseman. 367

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**Connecting lines:** Connecting carrier: presumption as to lost goods. 653  
 — rights and duties of connecting carrier in regard to original consignor. 653  
 Initial carrier: what constitutes assumption of liability for delivery of goods at destination. 653

**Discrimination and overcharge:** Discrimination resulting in financial benefit to state: whether justified. 360, 367

Extension of credit to some but not all shippers constitutes discrimination. 82

**Limitation on liability:** Agreed valuation: effect of deviation on contract for. 752

Effect of Carmack amendment on state's power over contracts limiting liability. 456

Negligence: when contract of exemption for, is valid. 742, 762

**Loss or injury to goods:** Effect of deviation in contract for agreed valuation. 752

## CHECKS.

See under *Bills and Notes*.

## CIVIL LAW.

See *Roman Law*.

Personal rights of indefinite character: artist's rights in picture. 654

## CONFLICT OF LAWS.

See *Domicile; Taxation*.

**Extent of governmental powers:** Extraterritorial effect of personal statutes. 536, 548

**Recognition of foreign judgments:** Merger of foreign judgment. 375  
 Reversal of judgment as defense to a foreign judgment based on the reversed judgment. 437, 450

**Recognition of foreign penal laws:** Enforcement of individual liability of directors. 172, 175  
 Penal statutes: what laws are to be regarded as such. 172, 175

**Jurisdiction of courts: personal jurisdiction:** Allowing foreigners to sue. 288

Enjoining person within territory from prosecuting a pending suit in a foreign jurisdiction. 347, 374  
 Jurisdiction of court of equity. 292-296

Jurisdiction over foreigners: at common law. 283-301

Jurisdiction over foreigners: common law of Europe. 195-206  
 — right of foreigner to sue. 196-197

— suit against a foreigner. 197-206

— foreign corporations. 206

— European law. 193-211

— law of France. 207-211

— right of foreigner to sue. 207-209

— suit against a foreigner. 209-211

— Roman law. 195

Jurisdiction over persons not actually present: in general. 296-301

— by consent. 297-301

— if property within jurisdiction. 297

— if cause of action arose within territory. 296-297

— domicile. 296

Presence within jurisdiction. 284-296

Proceeding on a foreign cause of action. 289-292

Service on foreign corporation which has ceased to do business in the state. 749, 756

**Jurisdiction for divorce:** Decree at matrimonial domicile entitled to full faith and credit. 449

Separate domicile of wife. 447, 450

**Remedies: right of action:** Proceeding in one state on cause of action arising in another. 289-292

**Marriage:** Capacity of parties determined by law of place of celebration. 536, 548

Foreign marriage in spite of divorce forbidding re-marriage. 536, 548

Nullification: what court can decree. 253, 265

**Rights in property:** Law of forum governing maritime lien acquired in foreign port. 356, 377

**Effect and performance of contracts:** Foreign contract that looks only to insurance fund for compensation for injury caused by negligence of master: available as defense to tort in jurisdiction. 459

**Assignment of Contracts:** Indorsement of instrument, non-negotiable at place of contracting, at a place where such instruments are negotiable. 753

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## CONSIDERATION.

**Theories of consideration:** Nature of consideration: in general. 429-436

Whether it must be presently exchanged or may be given subsequently. 429-432

Whether the consideration in a bilateral contract is the counter promise or performance of such promise. 433-435

## CONSPIRACY.

**Criminal liability:** Trial allowed where overt act committed. 83

## CONSTITUTIONAL LAW.

See also *Contempt; Criminal Law (Former Jeopardy); Elections; Eminent Domain; Federal Courts; Impeachment; Interstate Commerce; Police Power; Taxation.*

**Construction, operation, and enforcement of constitutions:** see also under sub-head *Due Process of Law.*

Fourteenth Amendment: judicial construction of, in general. 1-41

— definition of "liberty." 9-13

— definition of "property." 13-18

— "person" construed to include corporation. 9

— what is "action by states." 2-6

— what is "equal protection of the laws." 29-41

**Separation of powers:** Doctrine in American form of government: in general. 744, 753

Administrative appointment of judicial officers. 744, 753

**Powers of the judiciary:** Advisory opinions: obligation of courts to give same. 655

The Constitution and the courts. 507-530

**Powers of legislature:** Power to regulate punishment for contempt of court created by Constitution. 265

Validity of statute effective on passage of constitutional amendment. 549

**Delegation of Powers:** Taxing power: delegation of to directors of school district appointed by the courts held valid. 257, 266

**Implied Powers:** Power of Congress to enact incorporation laws and to regulate corporations. 667-683

**Impairment of the obligation of contracts:** Remedy: change of, incorporated in the obligation. 368

Right of purchaser at mortgage foreclosure sale to raise the question. 548

**Trial by jury:** Validity of statute allowing change of venue on application of prosecutor. 754

Where trial court wrongly did not direct verdict for defendant, the appellate court has power only to direct a new trial, under Seventh Amendment. 732-737, 738, 754

**Due process of law:** Judicial definition of, in general. 18-29

Deprivation of property where financial benefit to state. 360

Limiting the use to which property may be put. 367

Pipe-line Amendment to Interstate Commerce Act. 631, 655

**Personal rights:** Martial law: doctrine of public necessity. 636, 655

**Enforcement of judgments:** Divorce decrees. 449

**Personal rights: civil, political, and religious:** Basis of military jurisdiction. 636, 655

Cruel and unusual punishment. 163, 175

"Liberty," "property," and "equal protection of the laws" as used in the Fourteenth Amendment, definition of. 9-18, 29-41

Liberty to contract: employer's right to require employee not to remain in trade union. 83

Liberty to contract: prohibition of discrimination between different communities to injure competition. 369

Power of court to review action of military authority. 636, 655

Religious liberty: compulsory fee to support Christian association in state college. 450

Right to vote: right of negroes to suffrage: in general. 42-63

— right of negroes to suffrage: grandfather clauses. 43-59

— right of negroes to suffrage: remedy if "grandfather clauses" unconstitutional. 59-63

Self-incrimination: compulsory statements out of court. 93



References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

- Privileges, immunities, and class legislation:** Regulation of trades: prohibiting discrimination between different communities to injure competitors. 369
- CONTEMPT.**  
**Punishment for contempt:** Legislature: power to regulate punishment for contempt of a court created by constitution. 265
- CONTRACTS.**  
 See also *Bailments; Consideration; Constitutional Law; Damages; Illegal Contracts; Offer and Acceptance; Quasi-Contracts.*  
**Defenses:** Effect of receivership of corporation on its executory contracts. 72, 92  
**Remedies for breach of contract:** Successive actions by correspondence school for installments as they came due after repudiation by pupil. 83
- CONTRIBUTORY NEGLIGENCE.**  
**In general:** Duty to look before crossing street. 93  
 "Last clear chance" doctrine. 369
- CORPORATIONS.**  
 See also *Municipal Corporation; Public Service Companies; Taxation.*  
**Nature of corporation:** Notice: whether corporation can have notice. 237-239  
**Citizenship and domicile of corporation:** Conclusiveness of statement of location in charter. 266  
**Charters:** Constructive notice of charter in *ultra vires* transactions. 540, 550  
**Capital, stock, and dividends:** Apportionment of stock dividends between life tenant and remainderman. 77, 89  
 Dividends: preferred stockholder's right to share in stock dividends. 75, 84, 656  
 Dividends: right of stockholder to recover dividends informally declared. 370  
 Shares without nominal or par value. 729-731  
 Situs of stock at domicile of corporation. 754  
**Corporate powers and their exercise:** Materiality of notice to corporation when officer acting in its behalf has no personal knowledge of the matter in question. 246-252
- Notice: how a corporation can receive notice. 239-246  
**Ultra vires contracts: rights and liabilities of parties:** Constructive notice of charter. 540, 550  
 Personal liability of agent. 542, 550  
**Directors and other officers:** Agent: personal liability for *ultra vires* transaction. 542, 550  
 Interlocking directorates: in general. 467-492  
 — common-law remedies. 471-480  
 — proposed statutory remedies. 480-488  
 — whether Sherman anti-trust law is applicable. 488-490  
 Liability of directors to corporation for torts committed in its name for their personal ends. 267  
**Liability of directors:** Liability to stockholders for excessive salaries paid to themselves and other employees. 451  
 Private interest of director: effect on contracts of corporation. 472-477  
 Remedies against directors: accountability for profits from contracts of corporation in which they had a private interest. 477-479
- Stockholders: rights incident to membership:** Minority stockholders: right to restrain transfer of control of stock from one competitor to another. 549  
 Right of preëmption of preferred stockholder. 75, 84, 656  
**Stockholders: individual liability to corporation and creditors:** Full payment of shares: liability of innocent purchaser of unpaid stock. 540, 550  
**Torts and crimes:** Tort action against corporation: slander by agent. 175
- COURTS.**  
 See *Federal Courts; Impeachment; Jurisdiction of Courts*, see *Conflict of Laws.*  
 Administration of justice in the modern city. 302-328  
 The Constitution and the courts. 507-530  
 Advisory opinions: obligation of courts to give same. 655  
 Difficulties involved in meeting present day problems of administration of justice in the American city. 324-328  
 Problems of the administration of

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

justice in an American city to-day.	310-324	<b>CRIMINAL LAW.</b>
A proposed method of dealing with "social legislation."	525-530	Particular crimes, see <i>Conspiracy</i> ; <i>False Pretenses</i> ; <i>Larceny</i> .
The so-called "recall of judicial decisions": in general.	508-525	<b>Attempt:</b> Jurisdiction.
Unsuitability of present judicial organization to modern needs.	302-328	452
<b>COVENANTS OF TITLE.</b>		<b>Statutory offenses:</b> Divisibility of offense: practice of medicine without license.
<b>Covenant against incumbrances:</b>		370
Former recovery not a bar to subsequent one.	176	Liability of agent of purchaser in illegal liquor sale.
<b>Covenant of warranty:</b> measure of warrantor's liability: to sub-grantee.	755	550
		<b>Specific intent:</b> Assault with intent to kill.
		452
		<b>Former jeopardy:</b> Severer punishment for habitual criminals.
		84
		<b>Jurisdiction:</b> Trial of conspiracy allowed where overt act committed.
		83

## D

### DAMAGES.

In admiralty, see *Admiralty*; see also *Death by Wrongful Act*; *Eminent Domain*.

**Measure of damages:** Covenant of warranty: limited to amount paid by original grantee.

755

Infringement of easement, whether recovery for injury to other than dominant tenement.

90

Probate clause in insurance policy: apportionment of recovery when both compound and specific policies.

80, 88

**Exemplary damages:** Evidence of defendant's wealth.

270

**Mitigation:** Right of converter to return goods.

764

### DEATH BY WRONGFUL ACT.

**Damages in statutory action:** Nature of damages recoverable: loss of care and advice of husband.

551

### DEDICATION.

See also *Eminent Domain*.

**Essential elements of dedication:** Acceptance by adverse possession.

85

### DEEDS.

See also *Parol Evidence Rule*.

**Delivery, acknowledgment, and acceptance:** Delivery in escrow: in general.

565-587

— to third person to be delivered on performance of contractual obligation by grantee.

567-575

— to third person to be delivered on grantor's death.

575-582

— to third person to be delivered on happening of contingency.

582-587

**Attestation:** Statute requiring attestation: whether attestation of acknowledgment is sufficient.

267

**Construction and operation in general:** Warranty deed of timber: whether fee passes.

453

**Conditions:** Assignment of right of entry to co-heir.

176

### DESCENT AND DISTRIBUTION.

See also *Executors and Administrators*. Right of father to inherit from son adopted by another.

546

### DIRECTORS.

See *Corporations*.

### DIVORCE.

See *Conflict of Laws*; *Domicile*. Judgments as being entitled to full faith and credit, see *Constitutional Law (Enforcement of Judgments)*.

**In general:** Distinguished from nullification.

253, 265

**Alimony:** Modification of decree which adopted terms of agreement between parties.

441, 453

Power to modify award in gross.

551

### DOMICILE.

See also *Conflict of Laws*.

Domicile of corporations: conclusiveness of statement of location in charter.

266

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

Domicile of persons *non sui juris*:  
capacity to change. 268  
Husband and wife: possibility of  
separate domicile. 447, 450

**DURESS.**

See also *Quasi-contracts*.

The nature and effect of duress.

255, 268

**E**

**EASEMENTS.**

**Nature and classes of easement:**  
Right to maintain a nuisance. 460

**EJECTMENT.**

Railroad building on land: effect of  
knowledge of owner. 184

**ELECTION.**

See *Equitable Election*.

**ELECTION OF REMEDIES.**

A criticism of the doctrine. 707-719  
Origin of the doctrine. 715-719  
The conflict in decisions applying the  
rule. 711-715  
Inconsistency of the doctrine with  
other rules of law. 711  
The inequitable operation of the rule.  
709-711  
The principles on which the doctrine  
depends. 708-709

**ELECTIONS.**

Eligibility of judge for nomination to  
office beginning after his term. 269  
Right to appear on ballot under party  
name: in general. 351, 371  
— whether political or judicial ques-  
tion. 351, 371  
Right to appear on ballot under party  
name: when nomination made by  
primary. 351, 371

**EMINENT DOMAIN.**

**What property may be taken:** City  
taking property of which it was  
the grantor. 177  
Property already dedicated to pub-  
lic use. 177  
**Compensation:** Effect of change of  
user. 439, 453  
Rights given against the fund. 453  
Mortgagee's claim on fund paid into  
court. 453

**EQUITABLE CHARGES.**

See under *Trusts*.

**EQUITABLE CONVERSION.**

Effect of option to purchase land.  
747, 763

**EQUITABLE ELECTION.**

Taking under will in one state bars  
claiming against it in another.

177

**EQUITY.**

See also *Foreign Corporations; Injunc-  
tion; Specific Performance*.

**Jurisdiction:** In general. 292-296

Action by municipality against tax  
collector for taxes collected. 552

Injunction by municipal corpora-  
tion against public nuisance. 371

Injunction to restrain suit in foreign  
jurisdiction. 347, 374

Penal ordinance: whether can en-  
join enforcement. 454

Power to decree positive acts abroad.  
292-296

Substantial performance of con-  
ditions precedent in insurance  
policy. 271

**Procedure:** Operation of the re-  
formed equity procedure in Eng-  
land. 99-107

**ESTOPPEL.**

**Estoppel in pais:** Failure to act.

349, 372

**EVIDENCE.**

See also *Admissions; Constitutional  
Law; Damages; Parol Evidence  
Rule; Presumption; Witnesses*.

**General principles and rules of  
exclusion:** Exemplary damages:  
evidence of defendant's wealth.

270

**Hearsay: in general:** General discus-  
sion of rule. 146-153

What facts can be excluded by the  
hearsay rule. 148-149

What is a hearsay use of a state-  
ment. 149-153

**Dying Declarations:** Personal knowl-  
edge by deceased of facts stated.  
85

**Declarations concerning matters  
of public or general interest:**

Private boundaries: admissibility  
of declarations of deceased former  
owner as proof. 372

Private boundaries: requirement  
that declarant must have duty  
or interest to obtain accurate  
information. 372

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**Declarations against interest:**  
Whether confession of crime is sufficient. 755

**Declarations in course of duty:**  
Entries made by person other than original observer. 85

**Declarations concerning intention, feelings, or bodily conditions:**  
Intention: declarations as exception to the hearsay rule: general discussion. 146-160

**Res gestæ:** Violation of rules of railway company as evidence of negligence. 552

**Opinion evidence:** expert testimony: learned treatises. 642, 656

Handwriting: comparison of handwriting in general. 167, 178

Non-expert testimony: comparison of lost disputed writings with genuine writings in court. 167, 178

**Similar facts and occurrences:**  
Crimes other than one in issue. 656

**Real evidence:** Physical examination of plaintiff in personal injury suit. 269

**Documents:** Ancient documents as evidence of facts stated therein. 544, 552

Ancient document as self-proving. 544, 552

## EXECUTORS AND ADMINISTRATORS.

**Administration:** Appointment of debtor as executor as completing an intended release of debt. 445, 455

Appointment of intended donee as executor as completing gift. 445

**Title:** Estate by implication in realty. 382

**Rights, powers, and duties:** Statute of limitations: right of executor to plead to his personal debt to the estate. 269

## EXEMPLARY DAMAGES.

See under *Damages*.

## F

### FALSE PRETENSES.

Distinction between false pretenses and larceny by trick. 375

### FEDERAL COURTS.

See also *Impeachment*.

**Jurisdiction:** Enjoining proceedings in state courts. 270

**Jurisdiction based on nature of subject matter:** Laches as a federal question. 86

**Relation of state and federal courts:** Enjoining action in state court. 270

### FEDERAL EMPLOYERS' LIABILITY ACTS.

See under *Interstate Commerce (Control by Congress)*.

### FENCES.

Fencing statutes: civil liability of railroad, under, for lost cattle. 531, 559

### FIXTURES.

Agreement to treat fixtures as personalty: effect as to *bonâ fide* purchaser of land. 657

Trade fixtures. 372

What fixtures are removable. 372

### FOREIGN CORPORATIONS.

See under *Conflict of Laws; Corporations, Taxation*.

Internal management: jurisdiction of equity to interfere. 451

Mandamus to compel inspection of books. 451

Service of process: when corporation has ceased to do business in the state. 749, 756

### FRAUD.

See *Agency*.

### FRAUDULENT CONVEYANCES.

See also *Bankruptcy*.

**Rights of parties to the conveyance:** Insurance as a fraudulent conveyance. 362

## G

### GARNISHMENT.

**Persons subject to garnishment:**  
Insurance company: distinction

between indemnity insurance and insurance against liability. 373  
Insurance policy: distinction be-

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

tween indemnity insurance and insurance against liability. 373

**GIFTS.**  
**Gifts inter vivos:** Delivery of bill of sale sufficient. 87

Effect of appointment of donee of incomplete gift by executor. 445

**Gifts causa mortis:** Valid as against husband's rights under distribution statute. 86

## H

### HANDWRITING.

See under *Evidence (Opinion Evidence)*.

### HEARSAY EVIDENCE.

See under *Evidence*.

### HIGHWAYS.

See also *Dedication*.

**Establishment:** Pecuniary interest of commissioner renders resolution for establishment voidable. 87

### HISTORY OF LAW.

See also *Courts; Judges*.

**Property:** Causes which shaped the Statute of Uses. 108-127

**Miscellaneous:** Date and authorship of the Statute of Frauds. 329-346  
 History of judicial organization in America. 302-310  
 Origin of doctrine of election of remedies. 715-719

### HUSBAND AND WIFE.

See also *Conflict of Laws; Domicile*;

*Marriage; Witnesses (Competency as to particular Matters)*.

**Rights of husband against wife and in her property:** Gift *causa mortis* valid as against husband's rights under distribution statute. 86

**Rights and liabilities of husband as to third parties:** Action for physical illness of wife caused by publication of libelous words. 87

**Rights and liabilities of wife as to third parties:** Action by wife for loss of companionship caused by negligent injury to husband. 74, 88

Recovery by wife for loss of companionship caused by selling opium to husband. 74, 88

**Contracts between husband and wife:** Separation agreements: effect of adultery of wife upon her rights under separation agreements. 553

## I

### ILLEGAL CONTRACTS.

*Ultra vires* contracts, see *Corporations*.

**Contracts collaterally related to something illegal:** Recovery of proceeds of illegal transaction in hands of agent. 374

**Contracts against public policy:** Detective bureau's compensation depending upon success. 553  
 Exempting railway for loss by fire due to railroad's negligence. 742, 762

Exemptions from liability for negligence: in general. 742, 762

Ousting courts of jurisdiction: agreement to submit to tribunals of mutual benefit society. 178

**Effect of illegality:** Recovery by parties to illegal contracts: in general. 738, 756

Recovery of proceeds in hands of agent. 374

Scope of maxim "*in pari delicto melior est conditio possidentis*." 738, 756

### IMPEACHMENT.

A monograph on the impeachment of the federal judiciary. 684-706  
 American cases. 699-705  
 The *lex parliamentaria* of England. 685-687

Provisions of the federal Constitution. 687-699

### INFANTS.

**Contracts and conveyances.** Necessaries, liability on executory contract for. 455

**Actions for injuries to infants:** Employing child under the age allowed by child-labor statute:

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

liability for personal injuries if child obtained employment by misrepresentation of age.

646, 660

**Unborn children:** Rights of unborn children in law of torts. 638, 657

## **INHERITANCE TAX.**

See *Taxation* (*Particular forms of taxation*).

## **INJUNCTIONS.**

**Nature and scope of remedy:** Municipal corporation: right to injunction to restrain public nuisance. 371

**Acts restrained:** Infringement of patent by public officers. 88

Interference with abutter's right of free access. 179

Restraining suits in a foreign jurisdiction. 347, 374

Submission to popular vote of constitutional amendment which lacked required number of votes in legislature. 455

Sherman Anti-Trust Act: right of private party to sue. 179

## **INSANE PERSONS.**

See *Domicile*.

## **INSURANCE.**

See also *Garnishment*.

**Nature and incidents of insurance contracts:** Ratification of unauthorized insurance contract by insured after loss. 264

**Insurable interest:** Persons having insurable interest: sister in life of brother. 756

**Rights of beneficiary:** Change of beneficiaries: when change is considered complete. 271

**Amount of recovery:** Pro rata clause: operation when both compound and specific policies. 80, 88

**Mutual benefit Insurance:** Right to amend by-laws to detriment of member. 180

Validity of agreement to submit to tribunals of society. 178

## **INTERNATIONAL LAW.**

**In general:** Arbitration of justiciable disputes. 416-428

"Justiciable": theoretical and practical justification for use of word in arbitration treaties. 416-428

**Treaties:** Arbitration of justiciable disputes. 416-428

## **INTERSTATE COMMERCE.**

See also *Railroads; Restraint of Trade; Taxation*.

**What constitutes interstate commerce:** Effect of intent of person to whom goods are shipped. 554  
Termini within one state of route partly within another. 457

**Control by Congress:** Conflict between federal and state police regulations: safety appliance acts. 757

Effect of Carmack amendment on contracts limiting liability of carriers. 456

Employer's liability for death under federal act; state statute as governing distribution of damages recovered. 374

Federal Employer's Liability Acts: Act of 1908; employees protected by act. 354, 374

National control and regulation of state corporations. 670-683

Power to confer on corporations special rights or franchises. 673-675

Power to enact incorporation laws. 667-671

Power to incorporate trading companies. 671-673

Requirement that interstate pipe lines be common carriers held unconstitutional. 631, 655

Webb Act allowing prevention of shipment of liquor into prohibited territory. 533, 554

White Slave Act. 657

Wilson Act: applicability to foreign shipments of liquor. 533, 554

**Control by states:** Conflict between federal and state police regulations: pure food laws. 757

— safety appliance acts. 757

Convict-made goods: statute requiring that they be labelled unconstitutional. 78, 88

Power to legislate concerning national corporations. 677

Railroad regulation: effect of Carmack amendment on contracts limiting liability of carrier. 456

Reservation by state of right to fix interstate rates as condition of incorporation or lease. 539, 554

Separate accommodations for races in interstate trains. 456

Taxation: in general. 358, 375

— goods in transit. 358, 375, 658

— national corporations. 678-679

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

### Interstate commerce commission:

Power to order equalization of intrastate rates with interstate rates. 757

### INTOXICATING LIQUORS.

**Legislation:** Webb Act allowing prevention of shipment of liquor into prohibited territory. 533, 554  
Wilson Act: applicability to foreign commerce. 533, 554

## J

### JOINT TENANCY.

See *Banks and Banking (Deposits)*.

### JOINT WRONGDOERS.

Release of one reserving rights against others. 185

Release of one not liable for the tort. 658

### JUDGES.

See also *Courts; Impeachment*.

The county judge and the administration of justice in the American city. 325-327

Eligibility during term for nomination to office beginning after his term. 269

Impeachment of the federal judiciary: history, scope, and decisions. 684-706

### JUDGMENT.

See also *Res Judicata*.

**Collateral attack:** merger of foreign judgments. 375

**Foreign judgments:** Constitutional protection of divorce decrees. 449  
Merger of foreign judgment. 375  
Reversal of judgment as defense to judgment based on the reversed judgment. 437, 450

**Satisfaction:** Assignment to maker of note of judgment against indorser. 458

### JURISDICTION.

See *Conflict of Laws; Equity; Federal Courts*.

### JURISPRUDENCE.

See *Roman Law*.

### JURY.

Waiver of trial by jury: consent to trial by five jurors. 271

## L

### LANDLORD AND TENANT.

See also *Mechanics' Liens*.

**Tenancies from year to year and month to month:** Notice necessary to terminate monthly tenancy. 181

**Assignment and subletting:** Sublessee's rights after surrender by lessor. 458

Sublease for full term with right of re-entry reserved: whether an assignment of term. 459

**Rent:** Constructive eviction defense to action for rent. 758

Right to recover from sublessee after surrender by lessee. 458

### LARCENY.

**Possession and larceny.** Possession of abandoned chattels. 272

**Larceny by trick:** Distinction between larceny by trick and false pretenses. 375

### LEGACIES AND DEVISES.

See also *Executors and Administrators*.

**Lapsed bequests and devises:** Provision against lapsing of a legacy by a power of appointment in the legatee invalid. 91

**Abatement:** Legacy conditioned on relinquishment of claims against third parties. 758

### LIBEL AND SLANDER.

See *Agency; Corporations*.

**Acts and words actionable:** Attributing an account of improbable personal experiences to a well-known author: whether libelous *per se*. 759

Failure to pay debt, words charging, not actionable. 181

Liability of corporation for slander. 175

Shadowing actionable without special damages. 658

**Privileged communications:** Publication of official opinion of Attorney General. 89

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**LICENSES.**

**Revocation:** Revocation after licensee has acted on parol license and incurred expense. 376

**LIENS.**

Maritime Liens, see *Maritime Liens*.

**LIFE ESTATES.**

Power of life tenants to find remaindermen by voluntary partition. 275

Trust funds: apportionment of stock

dividends between life tenant and remainderman. 77, 89

**LIMITATION OF ACTIONS.**

**Operation and effect of bar by limitation:** Executor's right to set up to his personal debt to the estate. 269

Reviving of mortgage by grantee without reviving debt. 89

**Waiver of statute:** Words necessary. 182

**M****MANDAMUS.**

**Persons subject to mandamus:** Mandamus of directors of foreign corporation by fellow director, to produce books. 451

**Parties:** Right of *de facto* officer to compel payment of salary. 555

**MARITIME LIENS.**

**Claims giving rise to liens:** Materialman's lien. 356

**Enforcement of liens:** Materialman's lien: what law governs. 356, 377

**MARRIAGE.**

See also *Conflict of Laws*.

**Validity:** Foreign marriage after divorce prohibiting remarriage. 536, 548

**Nullification:** Distinguished from divorce. 253, 265

Jurisdiction for nullification. 253, 265

**MASTER AND SERVANT.**

See *Agency*.

**Duty of master to provide safe appliances:** Contract that employee look only to insurance fund. 459

**Assumption of risk:** Basis of doctrine. 262, 272

Criminal statute requiring safe appliances: effect of, on doctrine. 262, 272

**Employers' Liability Acts:** Federal Employers' Liability Act of 1908: employees within scope. 354, 374

**Workmen's Compensation Acts:** Recovery for injury against third party: right to subsequent recovery against employer. 377

Relief fund benefits: whether acceptance of, is bar to recovery under Federal Employers' Liability Act. 273

**MECHANICS' LIENS.**

Right to enforce against lessor lien acquired on contract with lessee. 377

**MINES AND MINERALS.**

Adverse possession where severance of surface. 555

**MORTGAGES.**

See also *Subrogation*.

**Priorities:** Equitable substitution: whether intending purchaser of first mortgage who takes new mortgage instead of assignment of old has priority over judgment creditor of mortgagor. 261, 273

**Foreclosure:** Rights of purchaser: right to question constitutionality of statute affecting redemption. 548

**Limitation of actions:** Reviving of mortgage by grantee without reviving debt. 89

**MUNICIPAL CORPORATIONS.**

See also *Dedication*.

**Municipal debts and contracts:** Liability for services performed under void contract. 273

**Actions by and against municipal corporations:** Injunction by city against public nuisance. 371

**Franchises and licenses:** Estoppel to challenge validity of ordinance while enjoying franchise under it. 759



References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## N

**NEGLIGENCE.**

Contributory negligence, see *Contributory Negligence*.

**Duty of care:** Business custom is test of due care. 760

**NEGOTIABLE INSTRUMENTS.**

See under *Bills and Notes*.

**NOTICE.**

To agent as binding upon principal: see *Agency*.

To corporation from entries on its

books: see *Corporation (Corporate powers and their exercise)*.

**NUISANCES.**

**What constitutes a nuisance:** extinguishment of cause of action by parol license. 460

**Recovery of damages:** Action by one having no interest in the property affected. 760

Infringement of easement: recovery for injury to other than dominant tenement. 90

## O

**OFFER AND ACCEPTANCE.**

**Unilateral Contracts:** Performance constituting acceptance. 274

**OPINION EVIDENCE.**

See under *Evidence*.

## P

**PARDON.**

Effect on statute providing increased penalty for second conviction. 644, 659

**PAROL EVIDENCE RULE.**

**Substantive law expressed in terms of evidence:** Deed: parol agreement that it is to take effect on condition excluded. 182

**Construction of documents:** Wills: declarations of intention when legatee misdescribed. 90

**PARTITION.**

Power of life tenants to bind remaindermen by voluntary petition. 275

**PATENTS.**

The proposed patent law revision: general discussion. 123-145

**PERCOLATING WATERS.**

See *Waters and Watercourses*.

**PERPETUITIES, RULE AGAINST.**

See *Rule against Perpetuities*.

**PHYSICIANS AND SURGEONS.**

Necessity of patient's consent to operation. 91

**PLEDGES.**

Tortious disposal by pledgee: repledging by order of fraudulent pledgor. 660

Unindorsed promissory note held as collateral security: duty of pledgee to collect. 274

**POLICE POWER.**

See also *Intoxicating Liquors*.

**Nature and extent:** Present view of the United States Supreme Court. 631, 655

Statute requiring railroad to transport militia at less than regular rate: whether police power justifies this discrimination. 360, 367

**Interest of public order:** Separation of whites and negroes in railroad cars. 456

**Interest of public safety:** Regulation of railroad crossings. 169, 183

**Interest of public taste:** Building line without consent of all property owners. 367

**Regulation of business and occupations:** Labeling of convict-made goods by state statute: relation to interstate commerce. 78, 88

Prohibition against agreement not to join labor union as a condition of employment. 83

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**POLITICAL PARTIES.**

See also *Elections*.

Validity of nominations: political or judicial question. 351, 371

Right to appear on ballot under party name. 351, 371

**POSSESSION.**

See under *Larceny*; *Title, Ownership and Possession*.

**POWERS.**

Attempt to exercise a power contained in will of living testator invalid. 91

General powers: application of rule against perpetuities. 64-70, 720-728

Time of gift: whether creation or exercise of the power. 64-70, 720-728

**PRESUMPTIONS.**

**Existence and effect of presumptions in particular cases:** Death after seven years: presumption of fact or law. 378

**PRIORITIES.**

See under *Mortgages*.

**PRIVACY, RIGHT OF.**

Nature and extent of right. 275

Public shadowing without special damage. 658

**PROCEDURE.**

See under *Equity*.

**PROHIBITION.**

Whether a writ of right. 378

**PUBLIC OFFICERS.**

See under *Injunctions*.

**Compensation:** *De facto* officers: right to salary. 555

**PUBLIC SERVICE COMPANIES.**

**What callings are public:** Cemeteries. 761

**Regulation of public service companies:** Contracts for division of territory: whether an illegal restraint of competition. 761

Water companies: regulation requiring increase of facilities beyond those required by charter. 183

**Rights and duties:** Discontinuing branch of railroad. 659

Duty to increase facilities. 183

**PURCHASER FOR VALUE WITHOUT NOTICE.**

See under *Bills and Notes*.

## Q

**QUASI-CONTRACTS.**

**Recovery for benefits conferred without contract:** Subcontractor's right when original contractor's claim is unenforceable. 556

**Waiver of tort:** Effect of judgment

in passing title to chattel converted. 171, 183

**Money paid under duress:** Money paid under threat of criminal prosecution: recovery of same. 255, 268

## R

**RAILROADS.**

See also *Carriers*; *Receivers*.

**Title to land or right of way:** Right of owner to oust railroad wrongfully in possession. 184

**Railroad crossings:** Ordinance requiring railroad to construct a viaduct suitable for use by a street railway: constitutionality. 169, 183

**"Look and listen" rules:** Direction of verdict for defendant in case of failure to look and listen proper. 93

**Operation of leased lines:** Liability of lessor for expenses of receivership of lessee. 165, 184

**REAL PROPERTY.**

See *History of Law*; *Partition*; *Tenancy in Common*.

**RECEIVERS.**

Effect of receivership of corporation on executory contracts. 72, 92

Executory contracts as provable claims. 72, 92

Liability for receivership expenses: of lessor railroad for expenses of receiver of lessee. 165, 184

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

Power to sue in a foreign jurisdiction. 91

## RECORDING AND REGISTRY LAWS.

**Effect of recording in general:** Adverse possession under unrecorded deed. 762

## RES JUDICATA.

**Matters concluded:** Covenant against incumbrances: former recovery not a bar to a subsequent one. 176

## RESTRAINT OF TRADE.

**Monopoly:** Price restrictions on resale of chattels. 640, 659

Public service companies: right of competing companies to divide territory. 761

**Sherman Anti-Trust law:** Amount of competitive business necessary to make combination illegal. 379

Combination of competing railroads through control of stock. 379

Contracts by carriers to purchase output of independent coal operators illegal. 380

Cornering of market. 461

Elimination of existing competition: whether illegal if there is potential competition. 380

Monopoly as a continuing offense. 762

Outside competitors: whether suppression of, necessary in railroad combination to be within the act. 379

Purchase by carriers of coal land from which a proposed new carrier expected to derive its revenue illegal. 379

Right of private party to sue for injunction for violation. 179

## RESTRICTIONS AND RESTRICTIVE AGREEMENTS AS TO USE OF PROPERTY.

Personalty: restrictions in price on re-sale. 640, 659

## RIGHT OF PRIVACY.

See *Privacy, Right of*.

## ROMAN LAW.

Character of the Roman influence on present European and American law. 402-405

General doctrines of Justinian's Institutes. 405-415

The influence of the national character of Roman law in Germany and America. 391-402

Vocation of America for the science of Roman law. 389-415

## RULE AGAINST PERPETUITIES.

Application to general powers. 64-70, 720-728

Powers: distinction between time and manner of exercise of special power. 648

# S

## SALES.

**Rights and remedies of seller:** Restoring of vendor's lien upon insolvency of buyer after sale to *bonâ fide* purchaser. 557

**Implied warranties:** Wholesomeness of provisions: canned goods eaten in dining car. 556

## SEPARATION AGREEMENTS.

See *Husband and Wife (Contracts between husband and wife)*.

## SET-OFF AND COUNTER CLAIM.

Accommodated payee's right to set off against holder of note his credit balance. 366

## SLANDER.

See *Slander and Libel*.

## SPECIFIC PERFORMANCE.

**General nature and scope of equitable relief:** Enforcement against intervening purchaser who took with notice of plaintiff's option. 747, 763

Right of joint vendee to conveyance to himself alone. 461

## STATES.

Right to priority. 92

## STATUTE OF FRAUDS.

See also *Licenses*.

Date and authorship. 320-346

**Sufficient memorandum:** Undelivered deed not reciting the parol contract. 276

## STATUTE OF LIMITATIONS.

See *Limitation of Actions*.

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

**STATUTES.**

See also *Constitutional Law*.

**Interpretation:** Statute requiring attestation of deed by witnesses: whether attestation of acknowledgment of signing is sufficient. 267

**SUBROGATION.**

See also *Suretyship*.

Lessee's right to assignment of prior mortgage on redemption. 558

Right of one forced to pay debt against real debtor. 380

Whether intending purchaser of old mortgage who takes new mortgage instead of assignment of old is

subrogated to rights of first mortgage as against a judgment creditor. 261, 273

**SURETYSHIP.**

**Surety's defenses: variation of risk:** Judgment affirmed by consent on an appeal bond. 461

**Surety's defenses: omissions of creditor:** Bank's failure to apply deposit of debtor on its claim against him. 763

**Surety's right of subrogation:** Nature of right. 261, 273, 380  
Relation of depository's surety to state treasurer's surety. 558

**T****TAXATION.**

See also *Conflict of Laws; Constitutional Law*.

**General limitations on taxing powers:** Delegation of taxing power: whether rendering exercise invalid. 257, 266

**Purposes for which taxes may be levied:** Gratuities to Civil War veterans. 92

Satisfaction of moral obligation. 277

**Property subject to taxation:** Articles in interstate commerce. 358, 375

Property received in lieu of dower: whether subject to inheritance tax. 276

**Where property may be taxed:** Corporation: conclusiveness of statement of location in charter. 266

**Particular forms of taxation:** Inheritance tax paid in two states. 381

Inheritance tax: whether property taken in lieu of dower is subject to tax. 276

**TELEGRAPH AND TELEPHONE COMPANIES.**

**Status of company as engaged in public employment:** Right to contract with competitor for division of territory. 761

**TENANCY IN COMMON.**

Voluntary partition by life tenants: whether binding on remaindermen. 275

**TITLE, OWNERSHIP, AND POSSESSION.**

**Possession:** Abandoned chattels. 272  
Wild lands: what constitutes possession. 185

**TORTS.**

See *Admiralty; Agency; Corporations; Contributory Negligence; Livel and Slander; Joint Wrongdoers; Railroads (Look and listen rules); Trade Marks and Trade Names; Trover and Conversion*.

**Nature of tort liability in general:**

Affirmative duties: relation of, to estoppel. 349, 372

Breach of child labor statute: whether action barred by deceit of child. 646, 660

Estoppel: relation of to affirmative duties in the law of torts. 349, 372

Liability without intent or negligence: in general. 531, 559

Motive: effect of bad, on act otherwise lawful. 740, 764

**Criminal act:** Liability for harm through failure to perform statutory duty. 531, 559

**Interference with business:** Effect of wrongful motive in sale of land. 740, 764

**Unusual cases of tort liability:**

Fletcher v. Rylands: doctrine applied to blasting on land. 650

**TRADE MARKS AND TRADE NAMES.**

Equitable protection of trade name where no actual competition. 442, 462

References in heavy-faced type are to NOTES; in plain type to RECENT CASES; and in italicized type to ARTICLES.

## TRADE UNIONS.

**Strikes:** Right to strike to compel discharge of non-union employee. 259, 277

## TROVER AND CONVERSION.

**What constitutes conversion:** Repledging by order of fraudulent pledgor. 660

**Who may sue:** Bailee at will for conversion occurring after loss of possession. 381

**Damages:** Right to return converted property in mitigation of damages. 764

## TRUSTS.

**Nature of the trust relation:** Trust distinguished from equitable charge. 559

**Cestui's interest in the res:** Apportionment of stock dividends between life tenant and remainderman. 77, 89

Right to reclaim after disclaimer. 660

**Creation and validity:** Land conveyed to grantee on oral trust for grantor. 661

# V

## VENDOR AND PURCHASER.

**Rights and liabilities:** Risk of loss in executory sale of land. 560

**Remedies of purchaser:** Specific performance against intervening

purchaser who takes with notice of option of plaintiff. 747, 763

## VENUE.

See under *Constitutional Law*.

# W

## WATERS AND WATERCOURSES.

**Natural watercourses: riparian rights:** Flood waters: interest in of lower riparian owner. 278

Riparian rights: various doctrines in the United States 613-614

**Natural lakes and ponds:** Title to land under water formed by erosion of non-riparian owner's property. 185

**Surface waters:** Extent of rights: doctrine of reasonable use not applied to surface waters. 186

**Conveyances and contracts:** Assignment of riparian rights. 661

**Public rights:** Conservation of water-powers: in general. 601-630  
— federal obstacles to conservation. 622-625

— interests of conservation not hostile to those of water-power owners. 628-629

— under state legislation. 625-628  
Government control of private water-power dams. 614-622

## WILLS.

See also *Equitable Election; Executors and Administrators; Parol Evidence Rule; Legacies and Devises*.

**Incorporation by reference:** What words are sufficient. 278

**Fraud, undue influence, and mistake:** Striking words out of will on ground of mistake. 212-236

Power of court of equity to strike words out of will. 212-214

**Probate:** Power of court to strike out words on ground of mistake. 215-223, 227-236

Striking out words on ground of mistake: what sort of mistake necessary. 223-227

**Construction:** Estates by implication. 382

"To dispose of in accordance with my instructions to her" construed as insufficient to incorporate by reference. 278

**Revocation:** Effect of revocation: disposition of revoked legacy. 382

## WITNESSES.

**Competency as to particular matters:** Bastardizing the issue: admissibility of wife's testimony to prove adultery. 560

**Privilege against self-incrimination:** Application to compulsory statements out of court. 93

Extent of protection by immunity statute. 560

## WORKMEN'S COMPENSATION ACTS.

See under *Master and Servant*.

## BOOK REVIEWS.

	PAGE
ADAMS: The Origin of the English Constitution . . . . .	385
AMES: Lectures on Legal History and Miscellaneous Legal Essays . . . . .	765
ANSON: The Law and Custom of the Constitution. Vol. I: Parliament. Fourth Edition . . . . .	190
BEROLZHEIMER: The World's Legal Philosophies . . . . .	279
BLAKEMORE: The Inheritance Tax Law . . . . .	563
BLACK: Handbook on the Law of Judicial Precedents . . . . .	281
BOLLAND: The Eyre of Kent, 6 & 7 Edward II, 1313-14 . . . . .	387
BOUVÉ: A Treatise on the Laws Governing the Exclusion and Expulsion of Aliens in the United States . . . . .	662
BRISSAUD: A History of French Private Law . . . . .	562
BROWN: The Underlying Principles of Modern Legislation . . . . .	186
COLLINS: The Fourteenth Amendment and the States . . . . .	664
CONTINENTAL LEGAL HISTORY SERIES: A General Survey of Events, Sources, Powers, and Movements in Continental Legal History . . . . .	766
DE BEER: An Analysis of Salmond's Jurisprudence . . . . .	96
FROST: A Treatise on the Incorporation and Organization of Corporations . . . . .	768
HALSBURY: The Laws of England. Vols. XX, XXI . . . . .	563
HERSHEY: The Essentials of International Law . . . . .	767
HOURLWICH: Immigration and Labor. The Economic Aspects of European Immigration to the United States . . . . .	767
JENKS: A Short History of English Law . . . . .	188
JUDSON: The Law of Interstate Commerce and its Federal Regulation. Second Edition . . . . .	97
KRUEGER: Geschichte der Quellen und Litteratur des Roemischen Rechts . . . . .	562
MCLAUGHLIN: The Courts, the Constitution, and Parties . . . . .	280
MIRAGLIA: Comparative Legal Philosophy . . . . .	383
NICHOLS: Taxation in Massachusetts . . . . .	666
SALMOND: The Law of Torts. Third Edition . . . . .	282
SEDGWICK: Damages. Ninth Edition . . . . .	94
SHIELDS: Federal Courts and Practice . . . . .	665
TIFFANY: Handbook of the Law of Banks and Banking . . . . .	465
WALTON: Historical Introduction to the Roman Law . . . . .	189
WILLOUGHBY: The Distinctions and Anomalies Arising out of the Equitable Doctrine of the Legal Estate . . . . .	462
WOODWARD: The Law of Quasi Contracts . . . . .	561
WRIGHTINGTON AND HOLLINS: Tax Exempt and Taxable Investment Securities . . . . .	563
YOUNG: Foreign Companies and other Corporations . . . . .	96